

James Alan Bush  
1745 De Marietta Avenue #3  
San Jose, CA 95126  
(408) 982-3272

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Plaintiff in pro per

RICHARD W. WIEKING  
CLERK  
U.S. DISTRICT COURT  
NO. DIST. OF CA. S.J.

UNITED STATES DISTRICT COURT

**NORTHERN DISTRICT OF CALIFORNIA**

## SAN JOSE DIVISION

James Alan Bush, ) Case No.: C 08-01354 (RS) JF  
)  
Petitioner, ) EXHIBIT H  
)  
v. )  
 ) TRANSCRIPT OF PHONE CONVERSATION  
 ) BETWEEN DEFENDANT DANIEL NAPOLITAN  
 ) AND DEFENDANT ROBERT BRADFORD (AKA  
 ) "MALNBURG, JR.")  
 )  
Crime Scene Investigator James )  
Anton, Officer Benjamin Holt, )  
Lieutenant Carl Rushmeyer, )  
Lieutenant Vierra, Officer Jon ) Date: @ May 23<sup>rd</sup>, 2006  
Marines, Officer Christopher ) Time: @ 9:00 PM  
Fontaine, Officer Michael (aka )  
"Mick") Rose, Officer Devon )  
Klein, and Sunnvyale Department )  
of Public Safety, ) Judge Jeremy Fogel  
)  
- and - )  
)  
Long (aka "Kevin") Cao, Daniel )  
Napolitan, Daniel Cortez, )  
Laurene Weber, Robert Bradford )  
(aka "Malnburg, Jr."), Jonathan )  
Harrington, Josh Williams, )  
)  
Respondents. )

## SUMMARY

Relevant excerpts of a transcript of a phone conversation between Defendant, Daniel Napolitan, and Defendant, Robert Bradford (aka "Malnburg, Jr."), on May 23<sup>rd</sup>, 2006, at 9:00 PM.

## TRANSCRIPT

NAPOLITAN: Hello?

RECORDING: Hello! This is a collect call from...

BRADFORD:      Bobby.

RECORDING: ...an inmate at the...

NAPOLITAN: Hey!

RECORDING: ...Santa Clara County Department of Corrections. To accept charges, press zero. To obtain customer service... [touchtone] This call is subject to monitoring and recording. Thank you for using Evercom.

BRADFORD: Hello?

NAPOLITAN: D-Master B! What's up?

BRADFORD: What's up, [unintelligible]?

NAPOLITAN: [unintelligible] psycho [unintelligible]! I heard you tried  
to take on the freakin' five-oh with a big ol' blade; but,  
that's neither here nor there.

BRADFORD: I know! That's what they're trying to say, bro; but, that's  
totally not true.

NAPOLITAN: I don't believe it; you're not that type...kind of guy,  
dude

BRADEFOBD: No, not at all.

1 NAPOLITAN: But, um, you know...

2 BRADFORD: Uh, yeah! They're just saying that; but, I don't know why,

3 bro! [unintelligible]

4 NAPOLITAN: They say a lot of things...

5 BRADFORD: Yeah, bro; but...

6 NAPOLITAN: And, now, they're trying to say...

7 BRADFORD: They asked me, they said, "What was that noise?" You know

8 what I mean? Looks like something here...hear something

9 dropped, you know? It was a dumbbell. I was doing curls

10 before you came in here.

11 NAPOLITAN: Yeah, probably. Man, I got...I got arrested the next day,

12 myself.

13 BRADFORD: Yeah?

14 NAPOLITAN: Yeah.

15 BRADFORD: Yeah, yeah! Because they were, uh, they were asking,

16 fucking, they said, "C'mon, Danny! We know you're in there!

17 Come out!"

18 NAPOLITAN: Yeah! What is that all about? My warrants were only two-

19 thousand bucks.

20 BRADFORD: I don't know, dog.

21 NAPOLITAN: And, then...you know what, though?

22 BRADFORD: [inaudible]

23 NAPOLITAN: That day, in the mail, the same warrants ...a new bench

24 warrant came. You know, it was revised. It had said fifteen

25 grand. It was for the same two fucking warrants, um,

26 pending cases, or whatever. Small time shit! And, then...

1 and, then, what they...what they did was say, "Well, now you  
2 have seventeen thousand for warrants-this-and-that." And,  
3 that they added the old one onto it, which didn't matter,  
4 you know: fifteen, seventeen; but, you know, it was just...it  
5 was a good-time excuse; and, why would they be coming after  
6 someone for only two grand for the first warrant? They don't  
7 do that shit, unless Sunnyvale is really in the... Well,  
8 they are kinda slow. [chuckles] No. They're slow, um...slow  
9 in business, I'm saying. But, uh, how you doing, man?

10 BRADFORD: Alright. Fucking, [I] could use a couple bucks on my books;  
11 but, it's all good.

12 NAPOLITAN: Hey! What's your, uh, PFN?

13 BRADFORD: Uh, D-O-Z...

14 NAPOLITAN: D-O-Z? Oh, wait! Hold on! Hold on... Um, keep...keep  
15 talking... Oh! I got it right here. Yeah, so, uh, I heard  
16 you say you saw P.Z. up in there? How's he doing, too?

17 BRADFORD: Huh?

18 NAPOLITAN: Let me get... I'm getting my phone out so I can write that  
19 down. Oh! How's P... How's Paul doing, too?

20 BRADFORD: [unintelligible] He's healthy, fucking...

21 NAPOLITAN: You guys both...

22 BRADFORD: He's got his head together. He's got his head on straight  
23 and shit.

24 NAPOLITAN: You guys both in em-ay-oh-tay, or what?

25 BRADFORD: Nah, I'm fucking in, uh, downtown jail.

26 NAPOLITAN: Ah, okay. Okay. Right on.

1 BRADFORD: Yeah, they had me on the eighth floor for a minute, bro!

2 NAPOLITAN: They what? Eighth? Oh! 'Cuz you're a nut!

3 BRADFORD: They dressed me in red and yellow!

4 NAPOLITAN: Yeah! [laughs] Good shit, man! Oh, but, hey! At least

5 they put... At least they put...they mixed you up. Red and

6 yellow?

7 BRADFORD: Huh?! Yeah!

8 NAPOLITAN: Oh, okay.

9 BRADFORD: Yeah, uh, they had yellow tops and red bottoms.

10 NAPOLITAN: Yeah, banana-strawberry.

11 BRADFORD: Yeah.

12 NAPOLITAN: That's like, "Watch the fuck out," is what that is!

13 [chuckles] Yeah! Alright, man! Uh, hey! James is here, too;

14 but, okay... Let me...let me do this. Oh, I wanted to ask

15 you, too, man, if you needed, uh...man! They're probably

16 gonna get you on a dry out or something, huh?

17 BRADFORD: What's that?

18 NAPOLITAN: End-all, be-all: they'll probably just do some kind of dry-

19 out time? Um, like, as far as like...

20 BRADFORD: Well, I'm gonna fight it...I'm gonna fight this charge, bro,

21 to the end.

22 NAPOLITAN: For sure!

23 BRADFORD: Because, it's bullshit. I didn't come after them with a

24 weapon. Not even at all.

25 NAPOLITAN: For sure!

26 ...

1 BRADFORD: What happened the day that they arrested you?

2 NAPOLITAN: Oh, man! Well, here's all the get-down. When I left that  
3 night—because she was acting all crazy...

4 BRADFORD: I should've went with you, bro, because he/she was there,  
5 too, so I was all like...

6 NAPOLITAN: Uh-huh! So, what happened was, right when we got out of,  
7 um, the complex, she walks across the street to some, uh,  
8 somewhere over there...some friends she made earlier that  
9 night, supposedly, is what I'm guessing.

10 BRADFORD: Okay.

11 NAPOLITAN: Um, but, from that moment on, she's all [unintelligible]  
12 and I just kept walking, myself. I walked myself...my ass,  
13 um, you know, for...for, short...for... What is it? To keep  
14 the story short: I walked my ass to downtown, basically,  
15 and, uh, to kick it somewhere; and, I, you know, she went  
16 her way—I ain't gonna chase her down. At least she was out  
17 of the house, right? And, so, I'm guessing, there's a couple  
18 of different scenarios as to why the cops must've came.  
19 Basically, she got...she...she, fucking, who knows? Fucking,  
20 she got arrested first, right? If...if anyone could look at  
21 her paperwork, I'm sure that she got arrested before you  
22 all.

23 BRADFORD: Right.

24 NAPOLITAN: And, uh, she, fucking...I don't know! I haven't talked to  
25 her; but, what happened? Did she fucking send the cops? You  
26 know, I know...I know Daniel's seen her since; but, I didn't

1                   ask him about it because he's not the right person to ask,  
2                   kinda.

3   BRADFORD:    There's...there's...there is some weird stuff going on behind  
4                   all that, but...

5   NAPOLITAN:   So, she, uh... So, she...she pretty much sent the dogs this  
6                   way, I'll bet. Right?

7   BRADFORD:    No. I don't...I don't know. Things aren't all that they  
8                   appear, dog.

9   NAPOLITAN:   No?

10   BRADFORD:   'Cuz...

11   NAPOLITAN:   I mean, uh, I know...I know there's a... I know...

12   BRADFORD:   [unintelligible] came by right before...

13   NAPOLITAN:   Yeah...

14   BRADFORD:   You know what I mean? And, they tried to pull me out of  
15                   that situation.

16   NAPOLITAN:   He wanted to, uh, borrow the, uh, [scale]; but, he...he  
17                   didn't know nothing about anything, uh, the cops looking  
18                   for her yet, is what I think.

19   BRADFORD:   No, no.

20   NAPOLITAN:   ...what I understood; but...because everything happened at  
21                   the same time, supposedly; and, she...she's just, uh...she  
22                   was being just jay-cat supreme, dude!

23   BRADFORD:   [chuckles]

24   NAPOLITAN:   Yep!

25   BRADFORD:   Now, what was she saying about having another black guy?

26   NAPOLITAN:   When was this?

1 BRADFORD: No, I heard her saying that the other day.

2 NAPOLITAN: Um, you mean, before he got locked up?

3 BRADFORD: Yeah.

4 NAPOLITAN: I don't know. I don't remember. I'm...I wasn't trying to

5 listen to that; I was just, like, "Why's 'bitch' trippin',

6 you know?" And, then she threw bleach on me. I'm, like,

7 "Whoa, man!" I was surprised you didn't fucking deck her!

8 [laughs] Because you guys got toe-to-toe a couple of times.

9 [I was] like, "What the fuck! This bitch is crazy! What's

10 she doin'?"

11 BRADFORD: I know, huh?!

12 NAPOLITAN: Man!

13 BRADFORD: She was, though. Not just because of the me-getting-locked-

14 up situation—someone tried to pull me out of it before it

15 happened.

16 NAPOLITAN: I see. Yeah, I know who it is. Yeah...

17 BRADFORD: And, fucking...

18 NAPOLITAN: I had...I had...I've been in contact, yeah.

19 BRADFORD: It's, uh, I don't know, bro.

20 NAPOLITAN: But, they weren't...but, they...they had no idea until it...

21 I guess, when, supposedly, when they pulled up, they seen,

22 uh, [unintelligible] in the bushes; and, that's why... Or,

23 when they were leaving... I don't... Oh! You know what it

24 was? There was five-oh on Tasman already.

25 BRADFORD: Alright.

26 NAPOLITAN: And, they were arresting a girl. That's right!

1 BRADFORD: Ah!

2 NAPOLITAN: And, they seen that, so they shot right here to borrow a  
3 calculator, and...

4 BRADFORD: Okay.

5 NAPOLITAN: ...and, uh, and, then, that was that! At that point, there  
6 was no turning back for me, you know? Fucking, fuck the  
7 calculator right now. I tried to text them. I forget why...  
8 what...what was...oh! Yeah, yeah, yeah! The text got there  
9 after he left here because I had to... I'll tell you about  
10 it sometime, and all that.

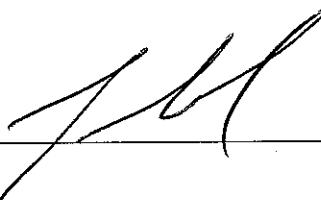
11 BRADFORD: Okay.

12 NAPOLITAN: But, um...

13

14 **VERIFICATION**

15 Plaintiff asserts that, to his full knowledge and to the best  
16 of his ability, the foregoing transcript is a true and accurate  
17 representation of the corresponding audio recording filed as Exhibit "L".

18  
19 Signed: 

Dated: 5-16-08